

AMENDED IN SENATE MAY 5, 2003
AMENDED IN SENATE APRIL 28, 2003
AMENDED IN SENATE MARCH 26, 2003

SENATE BILL

No. 798

Introduced by Senator Cedillo

February 21, 2003

An act to amend Section 1351.2 of the Health and Safety Code, relating to health care service plans.

LEGISLATIVE COUNSEL'S DIGEST

SB 798, as amended, Cedillo. Mexican health plans.

Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the regulation of health care service plans by the Director of the Department of Managed Health Care. Existing law requires a health care service plan licensed under the laws of Mexico that elects to operate a health care service plan in this state to apply for licensure and comply with the act and applicable rules adopted by the director. A willful violation of the provisions governing health care service plans is a crime.

This bill would require the director to notify immediately a plan that has ceased to operate legally in Mexico that the plan is required to comply with the laws of Mexico or become licensed in California within a specified time period. The bill would require the director to issue an order requiring the plan to cease *and desist* operations in California if the plan has not complied with either of those requirements. Because the bill would place additional requirements on a health care service plan, the willful violation of which would be a crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1351.2 of the Health and Safety Code
2 is amended to read:

3 ~~1351.2. (a) If a health care service organization certified by~~
4 ~~the Mexican Minister of Health elects to operate a health care~~
5 ~~service plan in this state, the~~

6 *1351.2. (a) If a pre-paid health plan operating lawfully*
7 *under the laws of Mexico elects to operate a health care service*
8 *plan in this state, the pre-paid health plan shall apply for licensure*
9 *as a health care service organization plan under this chapter by*
10 *filing an application for licensure in the form prescribed by the*
11 *department and verified by an authorized representative of the*
12 *applicant. The organization pre-paid health plan shall be subject*
13 *to the provisions of this chapter, and the rules adopted by the*
14 *director thereunder, as determined by the director to be applicable.*
15 *The application shall be accompanied by the fee prescribed by*
16 *subdivision (a) of Section 1356 and shall demonstrate compliance*
17 *with the following requirements:*

18 ~~(1) The organization is constituted and operating as a health~~
19 ~~care service organization under the laws of Mexico and, if required~~
20 ~~by Mexican law, is licensed as a health care service plan by the~~
21 ~~Mexican Department of Insurance. If the Mexican Department of~~
22 ~~Insurance determines that the organization is not required to be~~
23 ~~licensed as a health care service plan under the laws of Mexico, the~~
24 ~~applicant shall obtain written verification from that department~~
25 ~~stating that the applicant is not required to be a licensed health care~~
26 ~~service plan under the laws of Mexico.~~

27 *(1) The pre-paid health plan is constituted and operating*
28 *lawfully under the laws of Mexico and, if required by Mexican law,*
29 *is authorized as an Insurance Institution Specializing in Health by*

1 *the Mexican Insurance Commission. If the Mexican Insurance*
 2 *Commission determines that the pre-paid health plan is not*
 3 *required to be authorized as an Insurance Institution Specializing*
 4 *in Health under the laws of Mexico, the applicant shall obtain*
 5 *written verification from the Mexican Insurance Commission*
 6 *stating that the applicant is not required to be authorized as an*
 7 *Insurance Institution Specializing in Health in Mexico. Any*
 8 *Mexican pre-paid health plan not required to be an Insurance*
 9 *Institution Specializing in Health shall obtain written verification*
 10 *from the Mexican Ministry of Health that the pre-paid health plan*
 11 *and its provider network are operating in full compliance of*
 12 *Mexican law.*

13 (2) ~~The organization~~ *pre-paid health plan* offers and sells in
 14 this state only employer-sponsored group plan contracts
 15 exclusively for the benefit of citizens of Mexico legally employed
 16 in this state, and for the benefit of their dependents regardless of
 17 nationality, that pay for, reimburse the cost of, or arrange for the
 18 provision or delivery of health care services that are to be provided
 19 or delivered wholly in Mexico, except for the provision or delivery
 20 of those health care services set forth in subparagraphs (A) and (B)
 21 of paragraph (4).

22 (3) Solicitation of plan contracts in this state is made only
 23 through insurance brokers and agents licensed in this state or a
 24 third-party administrator licensed in this state, each of which is
 25 authorized ~~by the plan~~ to offer and sell plan group contracts.

26 (4) Group contracts provide, through a contract of insurance
 27 between ~~the organization~~ *pre-paid health plan* and an insurer
 28 admitted in this state, for the reimbursement of emergency and
 29 urgent care services provided out of area as required by
 30 subdivision (h) of Section 1345.

31 (5) All advertising, solicitation material, disclosure statements,
 32 evidences of coverage, and contracts are in compliance with the
 33 appropriate provisions of this chapter and the rules or orders of the
 34 director. The director shall require that each of these documents
 35 contain a legend in 10-point type, in both English and Spanish,
 36 declaring that the health care service plan contract provided by the
 37 ~~organization~~ *pre-paid health plan* may be limited as to benefits,
 38 rights, and remedies under state and federal law.

39 (6) All funds received by the ~~organization~~ *pre-paid health plan*
 40 from a subscriber are deposited in an account of a bank organized

1 under the laws of this state or in an account of a national bank
2 located in this state.

3 (7) The ~~organization~~ *pre-paid health plan* maintains a tangible
4 net equity as required by this chapter and the rules of the director,
5 as calculated under United States generally accepted accounting
6 principles, in the amount of a least one million dollars
7 (\$1,000,000). In lieu of an amount in excess of the minimum
8 tangible net equity of one million dollars (\$1,000,000), the
9 ~~organization~~ *pre-paid health plan* may demonstrate a reasonable
10 acceptable alternative reimbursement arrangement that the
11 director may in his or her discretion accept. The ~~organization~~
12 *pre-paid health plan* shall also maintain a fidelity bond and a
13 surety bond as required by Section 1376 and the rules of the
14 director.

15 (8) The ~~organization~~ *pre-paid health plan* agrees to make all of
16 its books and records, including the books and records of health
17 care providers in Mexico, available to the director in the form and
18 at the time and place requested by the director. Books and records
19 shall be made available to the director no later than 24 hours from
20 the date of the request.

21 (9) The ~~organization~~ *pre-paid health plan* files a consent to
22 service of process with the director and agrees to be subject to the
23 laws of this state and the United States in any investigation,
24 examination, dispute, or other matter arising from the advertising,
25 solicitation, or offer and sale of a plan contract, or the management
26 or provision of health care services in this state or throughout the
27 United States. The ~~organization~~ *pre-paid health plan* shall agree
28 to notify the director, immediately and in no case later than one
29 business day, if it is subject to any investigation, examination, or
30 administrative or legal action relating to the ~~organization~~ *pre-paid*
31 *health plan* or the operations of the ~~organization~~ *pre-paid health*
32 *plan* initiated by the government of Mexico or the government of
33 any state of Mexico against the ~~organization~~ *pre-paid health plan*
34 or any officer, director, security holder, or contractor owning 10
35 percent or more of the securities of the ~~organization~~ *pre-paid*
36 *health plan*. The ~~organization~~ *pre-paid health plan* shall agree that
37 in the event of conflict of laws in any action arising out of the
38 license, the laws of California and the United States shall apply.

39 (10) The ~~organization~~ *pre-paid health plan* agrees that disputes
40 arising from the group contracts involving group contractholders

1 and providers of health care services in the United States shall be
2 subject to the jurisdiction of the courts of this state and the United
3 States.

4 (b) The ~~organization~~ *pre-paid health plan* shall pay the
5 application processing fee and other fees and assessments set forth
6 in Section 1356. The director, by order, may designate provisions
7 of this chapter and rules adopted thereunder that need not be
8 applied to a ~~health care service~~ *pre-paid health plan* licensed under
9 the laws of Mexico when consistent with the intent and purpose of
10 this chapter, and in the public interest.

11 (c) If the plan ceases to operate legally in Mexico, the director
12 shall immediately ~~notify the plan in writing~~ *deliver written notice*
13 *to the health care service plan* that it is not in compliance with the
14 provisions of this section. If this occurs, a *health care service plan*
15 shall do all of the following:

16 (1) Provide the director with written proof that the *pre-paid*
17 *health plan* has complied with the laws of Mexico not later than 45
18 days after the date the written notice is received by the *health care*
19 *service plan*.

20 (2) If, by the 45th day, the *health care service plan* is unable to
21 provide written ~~confirmation of recertification as a health care~~
22 ~~service organization and, if required by Mexican law, relicensure~~
23 ~~as a Mexican health care service plan, the director shall notify the~~
24 ~~plan in writing that the plan is prohibited from accepting any new~~
25 ~~enrollees or subscribers. The plan shall be given an additional 180~~
26 ~~confirmation it is in full compliance with Mexican law; the director~~
27 ~~shall notify the health care service plan in writing that it is~~
28 ~~prohibited from accepting any new enrollees or subscribers. The~~
29 ~~health care service plan shall be given an additional 180 days to~~
30 ~~comply with Mexican law or to become a licensed California~~
31 ~~health care service plan.~~

32 (3) If, at the end of the 180-day notice period in paragraph (2),
33 the *health care service plan* has not complied with the laws of
34 Mexico or California, the director shall issue an order that the
35 *health care service plan* cease *and desist* operations in California.

36 SEC. 2. No reimbursement is required by this act pursuant to
37 Section 6 of Article XIII B of the California Constitution because
38 the only costs that may be incurred by a local agency or school
39 district will be incurred because this act creates a new crime or
40 infraction, eliminates a crime or infraction, or changes the penalty

- 1 for a crime or infraction, within the meaning of Section 17556 of
- 2 the Government Code, or changes the definition of a crime within
- 3 the meaning of Section 6 of Article XIII B of the California
- 4 Constitution.

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